IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 531 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI
and
Hon'ble MR.JUSTICE H.H.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? :

@

VIJYRAY GOVARDHANRAY KALAL
Versus
STATE OF GUJARAT

Appearance:
1. Criminal Appeal No. 531 of 1999
MR DEEPAK M SHAH for appellant No. 1
Mr.K.P.Raval, learned Addl.P.P. for Respondent No. 1

CORAM : MR.JUSTICE D.K.TRIVEDI
and
MR.JUSTICE H.H.MEHTA

Date of decision: 22/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE D.K.TRIVEDI)

1. The appellant accused has challenged the judgment and order of conviction and sentence recorded by the learned Addl. City Sessions Judge, Court No.22, Ahmedabad dated 23.4.99 in Sessions Case No.157/98, whereby the accused was convicted for the offence punishable under Sec.15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') and sentenced to suffer R.I. for 10 years and fine of Rs. 1 lacs, in default S.I. for 2 years.

2. Mr.Shah, learned advocate, appearing on behalf of the appellant, has, during hearing, taken us through the paper book consisting of oral and documentary evidence as well as the judgment under challenge. It is the contention of Mr.Shah that the learned trial Judge was not right in accepting the prosecution case by convicting the accused in a serious offence under the N.D.P.S. Act as according to him the prosecution has failed to establish that the accused was found with narcotic substance as alleged by the prosecution and further that the mandatory requirements of the NDPS Act are not followed during the raid and further that there was breach of requirements of NDPS Act and accordingly he prayed that by allowing the Appeal, the order of conviction and sentence rendered by the learned trial Judge be set aside.

3. Mr. K.P.Raval, learned Addl. P.P. has supported the judgment under challenge as according to him the prosecution has in term established the case against the accused and from the beginning, when a secret information was received, the investigating agency has followed all the mandatory provisions of the NDPS Act and prosecution has established the case against the accused beyond reasonable doubt and prayed that the Appeal be dismissed by confirming the order of conviction and sentence recorded by the learned trial Judge.

4. To appreciate the contentions raised before us, it is necessary for us to in brief highlight the prosecution case. The appellant accused was placed for trial before the learned trial Judge in Sessions Case No.157/98 and it is the prosecution case that on 9.3.98 at about 18.30 hours in City of Ahmedabad at Railway Station near Washing Yard accused is found to be in possession of 58 Kg. and 500 Grams of "Posh na Doda" (hereinafter referred to as 'the narcotic substance') without pass or permit and thereby the accused has committed offence under Sec.15 of the NDPS Act. To prove the case against the accused, the prosecution has led

evidence in the form of witnesses, including the evidence in respect of the investigating agency and the panch witnesses and the Scientific Officer of the Forensic Science Laboratory and the documents consisting of the complaint filed by Tiwari, report submitted by him to the superior officer, panchanama of seizure, seizure Memo and the acknowledgement of muddamal substance and the receipt thereof from the Laboratory and the report about examination of such substance in the F.S.L. Before discussing the evidence, we may observe that as per the F.S.L. report Exh.23, the substance was found to be narcotic substance and as per chemical and botanical examination, the substance Article 'A' was found to be "Poppy Straw". As found from the evidence of P.W. 1 Sharma, he has acted as a Panch, on the day when the raid was carried out by officers on Platform No.1 of Ahmedabad Railway Station and in presence of 2 Panchas, the narcotic substance was found from the possession of the accused. P.W.1 Sharma, Panch, had deposed that the Police has called him as a Panch at Platform No.12, Ahmedabad Railway Station and he was told by P.I. that the information is that one person sitting on Platform No.1 - old Platform Washing line - is in possession of narcotic substance. A preliminary Panchanama was drawn by the Officers in his presence alongwith other Panch and both the Panchas have put their signature on the said document. Thereafter, the Police Officer has called a person to weigh the substance and the P.I. of the raiding party alongwith other 4 to 5 Police persons had proceeded towards the washing line, where previously an old Police Station was situated. One person was siting on an Otla. P.I. in presence of Panchas had told the said person that the luggage is required to be searched as well as personal search was also required to be taken and for that whether the person wants to be searched by a Senior Police Officer or not and accordingly that person, namely, the accused had also agreed that he can search. The said reply was given by the accused in Hindi language. P.W.1 Sharma, Panch, had also identified the accused in the court as the person who was found there on the Platform on the Railway Station. Thereafter, the police had started search and one iron bag as well as two big bags (Thelos) as well as one gunny bag was found and the P.I. had in the presence of Panchas checked all the luggages and during the said checking from the iron bag, two Thelos were found. The said substance was of "Posh na Doda" (Narcotic substance). The P.I. has in presence of Panchas sealed the said substance found from the possession of the accused and applied seal. The Panchas have also signed the slip and the P.I. has also put his signature. The P.I. thereafter, after sealing of the

substance, had gathered and kept the same in one bag and the police has from each Thelo taken out 1 Kg of "Posh na Doda" and they have been separately sealed by keeping slip and the Panchas as well as the Senior P.I. had signed the said slips. The muddamal, which was seized, was to be sent to Forensic Science Laboratory and the witness has also in the court, while opening and removing the seal, identified the said substance, which was seized and sealed in their presence. The witness has also identified the signatures on the slips i.e. his signature, signature of the panch and the signature of the P.I. Samples Article A to A/3 and A/4 were also identified by witness before the court and he also identified his signature as well as the signature of other Panch and the P.I. It is the say of witness Sharma that the substance, namely, ""Posh na Doda"", which was found, was seized on the day when the Police party has carried out the raid on the railway station.

In the cross examination of panch witness P.W.1 Sharma, he deposed that he is staying at Saraspur in House No.404/15, Vasubhuvan, near R.C.Technical School, Saraspur and he is dealing in business of luggage outside the Kalupur Railway Station. His business is on Platform No.12 at the Railway Station from 8 to 12 P.M. He has further admitted that considering his business of luggage he is even required to sit late at night for his business and he is attached with this business since last one year. In respect of the incident, he deposed that on 9.3.98 he was on the railway station near Computer Division and he had gone to purchase ticket for Mumbai for his party and he has gone to purchase ticket for Gujarat Mail. He has denied that at that time P.I. Tiwari has not come at the Computer Centre but the Police persons had come. He has admitted that his Office is situated at Platform No.1 and the office of Tiwari is nearby and he has denied that because of his luggage business he knows the Railway Police and even the Railway Police knows him. He was told by the Police persons to act as a panch and he agreed to act as a Panch and a preliminary Panchanama was drawn. Even as found from the cross examination of the witness, in respect of the situation of his office, nothing much in favour of the defence was brought out at the instance of the defence and he had denied the suggestion that he had signed the Panchanama on a prepared Panchanama by the Police, as he is doing the business of luggage and at the instance of Tiwari he has signed the panchanama. He has proved the Panchanama Exh.13 which shows that at the time of search by Tiwari alongwith Panchas a narcotic substance was found and from the said substance, the samples were taken

out as per the Rules and even the search was carried out by following the mandatory provisions of the NDPS Act.

5. P.W.2 Tiwari has deposed that at the relevant time on 9.3.98 he was working as P.I. at Ahmedabad Police Station and during his duty at about 7.45 hours, Police Sub-Inspector Champavat from LCB had come and informed him that he received an information from the informant that at Ahmedabad Railway Station, where earlier police station was there, one person wearing brown colour pant and design shirt has having luggage with him and in the said luggage, the substance of Narcotics (Afin na Sukayela Doda - Pos Doda) was kept, which is used for intoxication and he has kept the said articles for sale. On receiving said secret information, he made entry in the station diary at 17.15 hours under entry No. 25 of 1998 in his own hand writing and the entry was signed by him. The xerox copy of the entry is produced by him, which is at Ex. 15. The note made in the station diary is required to be kept in duplicate and after expiry of 00.24 hours, said note is to be forwarded to the Superior Officer and accordingly, he has forwarded the said entry in favour of Deputy Superintendent of Police and the said note was also received by Superior Officer. After making the said entry in the station diary, he had deputed Police Constable Kiritbhai for bringing two panchas and he has also deputed Police Constable Hitendra to bring a person with scale and in between, he has kept ready the seal of Police Inspector, wax, thread and plastic bag and the papers. After making arrangement for two panchas and when the person with scale had arrived, he informed these persons about the information he received and asked them to accompany with raiding party. A preliminary panchanama was drawn between 18.00 hours to 18.15 hours and on the said panchnama both the panchas have put their signatures. The panchnama Ex. 13 was shown to him and he identified the signatures in the said document of two panchas and both the panchas have signed the said document before him. Thereafter, he alongwith raiding party with two panchas and a person, who came with scale with constable Kirit and Hitendra had proceeded for platform No. 1 and went to old police station through office of the MCO behind Kalusa Bava Pir Dargah and reached at Washing Yard, opposite to the old Police Station. There was one Oata and one person, as per the description, with his luggage was found. He inquired the name of that person and he disclosed his name as Vijayrai Gordhandas of Bhopal. Alongwith him one iron bag and two rexine big bags were found and one Gunny bag was also found, which is used for keeping the fertiliser. Shri Tiwari has

informed him that as per information they want to search him. He has asked that person, whether he is willing to give search in his presence or in presence of any superior officer or Executive Magistrate. He has told in Hindi language and in reply he has informed in Hindi that if you do, he has no objection. He identified the person, who was present in the Court. After consent was given by the accused for being searched, they carried out search and from the luggage of the accused, one iron bag was found as well as two Rexine bags and one gunny bag was found. After opening the said two gunny bags, from each Gunny bag, narcotic substances - opium " Pos na Doda" was found and after smelling the same, it was found opium (Pos na Doda). The accused was asked whether he has any pass or permit for the said substance with him. The accused could not produce any pass or permit. Thereafter, Khaibar Ali, who was present with scale was asked to weigh the substance. After carrying out the weight of the substance, it has kept in the empty plastic bag. From the iron bag, the dry powder of narcotic substance of opium "Afin na Doda" was taken out for sample separately and from another Gunny bag, the powder of opium was taken out for sample and the entire substance was kept in a Gunny bag. As found from the deposition of PW-2 Shri Tiwari that samples from each bag was taken and after weighing the said substance, it was found to be 1 Kg. of Afin Na Doda. Thereafter, the remaining narcotic substance was recovered and after weighing all the substance of these Gunny bags, the substance Pos na Doda was found weighing 58.500 Kgs. The said substance was sealed in presence of panchas and the receipts were also signed by both the panchas. After putting the substances in a cotton bag, the same was sealed with the help of thread and needle by putting the slip signed by both the panchas as well as by applying seal of the Police Inspector, Western Railway, Ahmedabad. He has also identified the muddamal in the Court as Muddamal Article No. A, which was found from the accused. The muddamals were kept ready for FSL. After removing the slips from the muddamal article, a slip signed by panchas was shown to him, which is at Ex. 6. He identified the signatures, which were signed by both the panchas in his presence and he identified the seal on the said article of Police Inspector. He has also identified the muddamal articles A-1 to A-6 and he has also identified the slip. He further deposed that total narcotic substance found is 58.500 kgs. including the samples, which was taken and sent for FSL. The value of the substance was assessed by him at Rs.29,250/-. As the accused was not having any pass or permit for getting said narcotic substance, the accused was informed that he

has been arrested for offence punishable under Section 15 of the NDPS Act and memo to that effect was given to the accused. Shri Tiwari has deposed that the contends of the said memo were explained to the accused in Hindi language and for that, accused has also signed the said document. He has produced the said documents Ex. 16 and 17. He has also proved panchnama, wherein, two panchas have signed before him and said panchnama is at Ex. 13. He has also produced the complaint filed by him against the accused, which is at Ex.18. After recording the complaint for registering the offence, he forwarded the complaint in favour of PSO for report under his signature and he has proved the said report, which is at Ex.19 and he himself had handed over the document namely FIR, report, Muddamal and panchnama to Shri Mohanbhai, who was working as PSO and after handing over the accused and muddamal to PSO, he immediately contacted on phone the Superintendent of Police (Control) at Baroda and he has made entry in the Wordhy book for the same.

As found from the cross-examination of the witness, he has admitted that his office is situated on platform No. 1 at the railway station and the railway police station is situated on platform No. 12. When he was sitting on platform No. 1, he received an information at about 17.45 hours and on the strength of the information, he deputed his staff for securing panchas. He has denied the fact that before noting down the information, he has deputed person for securing the presence. He has admitted that the station diary remained with PSO, which is at the police station. He has further deposed in cross examination that from platform No. 1 one has to go by foot to railway police station situated at railway platform No. 12 and it takes about 15 minutes and while preparing panchnama, it took about approximately 15 minutes. He further deposed that his staff were in civil dress. He has admitted that it is true that in the washing line, the work of cleaning of trains as well as repairing of the trains are being done. The witness was put question in respect of the place where they have gone alongwith panchas for raid and he deposed that the accused was sitting on Oata and he denied that no tree is situated in the middle of the Oata. He has further deposed in cross examination that he saw the accused at the distance of 10 foot and all the members of the raiding party were together. He further deposed that after the accused has seen them, the accused has not tried to run away. In respect of seizure of the goods, he has admitted that the accused was Hindi speaking person and inspite of that, he has issued the seizure memo in Gujarati language and in the said seizure

memo, the accused has signed in Hindi language. Witness stated that contends of the seizure memo was explained to the accused in Hindi language. He has denied the suggestion that the report was not made by him to his superior officer. He has no other documentary evidence and he has further denied that the muddamal articles in question was of a unknown person and the accused was not sitting on Oata and he was not present.

6. The evidence of PW- 2 Shri Tiwari, who is member of the raiding party shows that on Secret information received by him through PSI Champavat, the said secret information was entered into station diary at 17.50 hours and thereafter, he has deputed his staff for securing presence of two panchas and the person with the scale. Thereafter, when they reached at the old railway Police station at platform No. 12, the accused was found sitting on Oata and he explained the accused that as per information received, the accused is having possession of narcotic substances and he wanted to take his search and it was also told to the accused that if he wanted to take search in presence of Superior officer or Executive Magistrate, he can arrange for them. There is nothing found from the cross examination which will help the defence and mandatory requirements of the provisions of Section 50 of the NDPS Act is also followed. Even as per the evidence of Shri Tiwari, he has informed the accused by issuing seizure memo and though it is in Gujarati, the accused was explained in Hindi language.

7. PW-3 Shri Khaibarali Abdulkhan, who acted as panch, had deposed that he was doing business at platform No. 12. He has deposed that he was called at the police station situated at platform No. 1 and the police, who had come to him, had inquired that whether he has having any scale. Thereafter, he took a weigh measures consisting of 1 Kg, 2 Kg. and 500 gms. as well as scale and he has gone to platform No.1, where, PI Champavat was found as well as other police persons were present. PSI Tiwari was also present and he informed him that one person is sitting in the yard, where they have to go and he alongwith members of the raiding party, with two panchas, had left the platform No. 1 by foot and had gone to old police station, where, one person was sitting. PW-3 Khaibarali Abdulmiya has also identified the accused in the court. The person was sitting on Oata having some luggage, namely, one iron bag and two big cotton bags and one gunny bag. After opening the luggage, narcotic substance namely Afin Na Doda was found, which he weighed and he prepared six bags after

taking out some powder and it contained one Kg. and total substances was found 58.500 Kg. He identified the gunny bag and other muddamal articles in the Court.

In the cross examination, he deposed that he is residing in Madhubhai Mill Compound in hut and he is having the business of selling fruits. He is having his business of selling fruit at platform No. 1 and he has appointed one person to help him in his business. The police person had come and called him at 6 P.M. He went to platform No. 1 and in the station, PI Shri Champavat and Tiwari and other police persons were present and no other persons were present there. After leaving platform No. 1 and to reach at platform No. 12, it took 15 minutes. A person was sitting on a Oata. That Oata was not pakka Oata. He has further deposed that prior to that, Mr. Tiwari has not called him in any case. He has further deposed that he does not remember that in Sessions Case No. 198/97, or in a similar case, he was called by the railway police. His evidence is not recorded in that case. He has admitted in cross examination that when the accused was found at the place, the accused was alone. He has denied the suggestion that he has not accompanied the raiding party and he has not weighed the substance found from the possession of the accused. The suggestion put to him that as he is doing business at the Railway Station he was called to act as a Panch to help the police,which he has denied.

8. As found from the evidence of P.W.9 Karansinh Solanki,he deposed that on 10.3.98 he was on duty at Ahmedabad Railway Police Station and his duty was to effect service of summons and accordingly he was called by the Writer Head Constable Vishnubhai for handing over the muddamal in favour of Forensic Science Laboratory and Writer Vishnubhai had handed over the muddamal in question. The muddamal article Mark 'A' was shown to him, which was found sealed and the said muddamal was given to him for handing over in favour of F.S.L. and he had taken the said muddamal and handed over to the F.S.L. and he had received the acknowledgement of the said muddamal from F.S.L. Acknowledgement of the muddamal was produced by him at Exh.32. He has also proved the document Exh.33, which he received from the F.S.L. When he has taken the muddamal from Vishnubhai for handing over in favour of F.S.L., a Register was given by Vishnubhai in which he has signed. The entry on the Register is proved and the said entry, signed by him, is at Exh.30. He has also identified the signature in the said document.

In cross examination it is found from his deposition that when he has taken muddamal in F.S.L. alongwith him one Peon has come and the muddamal sample was handed over to the officer. He had denied the suggestion that before handing over the sample to the Officers of the F.S.L., he has handed over the sample to Peon. Exh.32 is the form signed by Police Inspector Tiwari, which was meant for the F.S.L. wherein the muddamal in question was sent for examination and the specimen seal was also found on the said document. Exh.33 is the acknowledgement issued by the Assistant Director of F.S.L. in respect of receiving muddamal from Police Constable Karansinh Solanki, Buckle No.187 addressed to Police Inspector, Ahmedabad Railway Police Station. From the evidence of P.W.9 it is fund that the muddamal in question was entrusted to Solanki for handing over the same to F.S.L. and the muddamal in question was received by the F.S.L. as per acknowledgement Exh.33.

9. P.W.10 Kalubhai Himmatbhai had deposed that he is attached with Ahmedabad Railway Police Station as a Police Constable and he is looking after Inward - Outward of the posts in the Railway Police Station. The letters received in the Police Station were entered in the Inward Register and the letters issued from the Police Station in favour of others were entered in the Despatch book. He has proved the entry from the Outward Register from Page 229 i.e. under outward No.1282 from Station Diary Page Nos.51 to 55. He has proved the said entry at Exh.36. These letters were handed over in the office of the Dy.S.P. and the said letters were acknowledged by the persons from the office of the Dy.S.P. He has proved the acknowledgement, which is at Exh.37.

10. P.W.11 Bhikhabhai Ranchhodbhai examined by the prosecution has deposed that since 1997 he was working as a Police Sub Inspector at Ahmedabad Police Station as an Investigating Officer and on 9.3.98 P.S.O. of the Police Station has delivered the papers of investigation,namely, the complaint, arrest memo, Panchanama and the statement of the accused for further investigation. These papers were received by him at night. He has recorded the statement of persons who were members of the raiding party and further statements of Panchas. He has also recorded the statement of Constable Karansinh, who has taken the muddamal for handing over the same to F.S.L. and has also recorded the statement of Head Constable, who has kept the muddamal. On receiving the report from the F.S.L., he has filed charge-sheet before the court.

In the cross examination he deposed that no

statement of other persons were recorded except that of the police, who were present at the time when the accused was apprehended. The witness has clarified that the washing line is about one Mile away from where the accused was found and, therefore, there is no question of recording any statement of the witnesses. It is further found in his cross-examination that he has investigated the case,but he has no personal knowledge about the arrest of the accused. He has denied that he has not recorded the statement as per the say of Tiwari. He identified the accused in the court.

11. As found from the evidence of P.W.4 Pathak, who deposed that on 10.3.98 one sealed parcel was received in the F.S.L. and the said parcel was given Case No.98 ANC/19. The said parcel was given by his superior officer for analysis on 23.3.98. When he received the parcel for analysis, seals were found intact and on examining the specimen seal forwarded by the Ahmedabad Railway Police Station, the same tallied with the seal found on the parcel. There were paper slips with signature and date. In the slip found from the parcel, it was written 9.3.98 and one name was found, which was not legible and another name was found of Hasmukh Chunilal and the signature of the Police Inspector, Ahmedabad was not legible. He was shown Article 'A' in which muddamal sample was sent for analysis and he identified Exh.6 slip, which was found in the sealed bag having seal. After opening the parcel, he found substance and he examined the said substance. He denied the suggestion that the substances were not examined botanically. He deposed that he handed over the substance from the sample for botanical examination. He has admitted that after he examined the substance, Smt. Shah had submitted her botanical examination report. It is further found from his cross examination that while examining the substance, he had taken help of Pandya, who was working as Assistant Scientific Officer. He has denied that as he was busy in other work, substance was examined by his Assistant. The witness has clarified that Pandya is working under his supervision. According to him he has started the examination of the substance on 23.3.98 and he has also examined the substance chemically on 1.4.98. Exh.23 is the letter from the Deputy Director of F.S.L. addressed to Police Inspector, Western Railway Police Station, Ahmedabad, wherein the F.S.L. has forwarded the report. On going through the report of the F.S.L., it is found that the F.S.L. has received the samples, which were forwarded by the Police Inspector under seal as well as tallied with the specimen seal forwarded by the Police. The report shows the

examination of the substance both chemically as well as botanically and the sample was found positive. As per opinion of the F.S.L., the substance which was analysed was found poppy straw as defined under the N.D.P.S.Act. As per the botanical opinion, the substance found was Papaver Somniferum (Posh-na-Doda) and the botanical report was under the signature of Smt. Shah.

12. As found from the evidence of P.W.5 Smt. R.N. Shah she had deposed that she is working with the F.S.L. at Ahmedabad since last 21 years as a Scientific Officer. She is having a degree of M.Sc. in Botany. She received the substance from Pathak, Scientific Officer on 23.3.98 for botanical analysis and she has analysed the said substance botanically and according to analysis the substance was found to be Papaver Somniferum (Posh-na-Doda).

In cross examination she has deposed that she has received the substance for botanical examination on 23.3.98 and she has started examination of substance on the very day and completed the examination on 1.4.98.

13. In light of the submission made by Mr. Shah while challenging the order of conviction and sentence recorded by the learned trial Judge and in view of the discussion in detail of the evidence of the prosecution witnesses and in light of the contentions raised by Mr.Shah and in view of the decision in the matter of Hathi v. State of Gujarat, decided on 23.9.92 in Criminal Appeal No.477/89 with Criminal Appeal No.496/89, which is based on appreciation of the evidence recorded by the High Court of Shri Ajitbhai Laljibhai Gamite, Senior Scientific Assistant cum - Assistant Chemical Examiner in Forensic Science Laboratory and the report submitted by him in respect of the botanical examination of the contraband goods and in view of the decision rendered by the Division Bench in respect of the appeal filed by the State for enhancement of sentence, wherein the Court has allowed the conviction Appeal of the accused by acquitting the accused from the provisions of the N.D.P.S. Act as well as from the provisions of Bombay Prohibition Act and dismissed the State Appeal for enhancement and in light of the evidence led in the present case, it is difficult for us to accept the submission of Mr. Shah that the substance found from the accused is not the narcotic substance and further it is difficult for us to accept the contention of Mr. Shah that the findings recorded by the learned trial Judge, by accepting the prosecution case that from the possession of the accused narcotic substance was found, are not

based on evidence and the accused has not committed any offence under the N.D.P.S. Act. In our view, the learned trial Judge has on appreciating the evidence, rightly accepted the prosecution case by holding that from the possession of the accused narcotic substance was found and further that as per the report of the F.S.L. narcotic substance was found and further that the prosecution has established the case in respect of the information received, for which raid was carried out by the Investigating Agency in presence of Panchas and from the possession of the accused the narcotic substance was found. In our view, no error is committed by the learned trial Judge in appreciating the evidence and further it is difficult for us, even after re-appreciating the evidence, to accept the contention that the prosecution has failed to prove the case against the accused. No other submissions were advanced by Mr.Shah and accordingly the Appeal filed by the appellant deserves to be dismissed.

14. Accordingly, the Appeal fails and the same is hereby dismissed. The order of conviction and sentence recorded by the learned Addl. City Sessions Judge,Court No.22, Ahmedabad on 23.4.99 in Sessions Case No.157/98 convicting the appellant accused for the offence under Section 15 of the Narcotic Drugs & Psychotropic Substances Act,1985 and sentencing the appellant accused to suffer R.I. for 10 years and pay fine of Rs.1,00,000/-- in default S.I. for 2 years is hereby confirmed.

(D.K.Trivedi,J)

(H.H.Mehta,J)

arg